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Attorneys for Respondents
CITY OF LOS ANGELES and
OFFICE OF LOS ANGELES MAYOR ERIC GARCETTI

NO FEE – GOV. CODE § 6103

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

AIDS HEALTHCARE FOUNDATION,	)	CASE NO. 19STCP04094
)	
<i>Petitioner,</i>	)	<i>(Honorable Mary H. Strobel)</i>
)	
vs.)	
	)	RESPONDENTS' ANSWER TO VERIFIED
	)	PETITION FOR WRIT OF MANDATE
	)	PURSUANT OT THE CALIFORNIA
CITY OF LOS ANGELES; OFFICE OF LOS	)	CONSTITUTION AND THE CALIFORNIA
ANGELES MAYOR ERIC GARCETTI; and	)	PUBLIC RECORDS ACT, AND
and DOES 1 through 10 inclusive,	)	COMPLAINT FOR DECLARATORY AND
	)	INJUNCTIVE RELIEF
)	
<i>Respondents.</i>	)	Department 82
)	

Respondents CITY OF LOS ANGELES and OFFICE OF LOS ANGELES MAYOR ERIC GARCETTI (hereinafter "Respondents"), hereby answer the Verified Petition for Writ of Mandate Pursuant to the California Constitution and the California Public Records Act, and Complaint for Declaratory and Injunctive Relief (the Petition) by admitting, denying, and affirmatively alleging as follows:

1. Answering the allegations in Paragraph 1, Respondents' admit AHF is a California nonprofit tax-exempted 501(c)(3) corporation based in Los Angeles, CA. As to the

1 remaining allegations, Respondents' lack sufficient information and knowledge to form a belief
2 as to the truth of the allegations and therefore deny them.

3 2. Answering the allegations in Paragraph 2, to the extent Petitioner purports to
4 characterize and/or quote some of the contents of a statute or case, Respondents' aver that
5 the legal authority speaks for itself. To the extent any of the remaining allegations in
6 Paragraph 2 are deemed to be allegations of fact, Respondents' admit them.

7 3. Answering the allegations in Paragraph 3, Respondents' admit the allegations.

8 4. Answering the allegations in Paragraph 4, Respondents aver that those
9 allegations constitute conclusions of law to which no response is required. Respondents' aver
10 that to the extent those allegations purport to characterize and/or quote excerpts of the
11 language of Government Code section 6258 and Article I, section 3(b) of the California
12 Constitution, the statute and constitution speak for themselves. To the extent any of the
13 remaining allegations in Paragraph 4 are deemed to be allegations of fact, Respondents' deny
14 them.

15 5. Answering the allegations in Paragraph 5, Respondents' lack sufficient
16 information and knowledge to form a belief as to the truth of the allegations and therefore deny
17 them.

18 6. Answering the allegations in Paragraph 6, to the extent the allegations in
19 Paragraph 6 constitute conclusions of law, no response is required. To the extent a further
20 response is required or the allegations in Paragraph 6 are deemed to be allegations of fact,
21 Respondents' lack sufficient information and knowledge to form a belief as to the truth of the
22 allegations and therefore deny them.

23 7. Answering the allegations in Paragraph 7, Respondents' admit the allegations.

24 8. Answering the allegations in Paragraph 8, Respondents' admit the allegations.

25 9. Answering the allegations in Paragraph 9, Respondents' admit the allegations.

26 10. Answering the allegations in Paragraph 10, Respondents' admit the allegations.

27 11. Answering the allegations in Paragraph 10, Respondents' admit the allegations.

28 12. Answering the allegations in Paragraph 12, Respondents' admit the RFP process

1 created records in the possession and control of Respondents. Respondents' aver that the
2 remaining allegations constitute conclusions of law to which no response is required. To the
3 extent a further response is required or the remaining allegations in Paragraph 12 are deemed
4 to be allegations of fact, Respondents' admit the allegations.

5 13. Answering the allegations in Paragraph 13, Respondents' admit that Exhibit 1,
6 attached to the Petition, is a fair and accurate representation of the August 22, 2019 letter
7 informing Petitioner that it failed to meet the minimum score requirement for funding under the
8 RFP. To the extent Petitioner purports to characterize and/or quote some of the contents of
9 Exhibit 1, Respondents' aver that Exhibit 1, speaks for itself.

10 14. Answering the allegations in Paragraph 14, Respondents' admit the allegations.

11 15. Answering the allegations in Paragraph 15, Respondents' admit the allegations.

12 16. Answering the allegations in Paragraph 16, Respondents' admit AHF submitted a
13 request for public records to the Mayor's Office on September 4, 2019. Respondents admit
14 that Exhibit 4, attached to the Petition, is a fair and accurate representation of the request. To
15 the extent Petitioner purports to characterize and/or quote some of the contents of Exhibit 4,
16 Respondents' aver that Exhibit 4, speaks for itself.

17 17. Answering the allegations in Paragraph 17, Respondents' admit that Exhibit 5,
18 attached to the Petition, is a fair and accurate representation of the request. To the extent
19 Petitioner purports to characterize and/or quote some of the contents of Exhibit 5,
20 Respondents' aver that Exhibit 5, speaks for itself.

21 18. Answering the allegations in Paragraph 18, Respondents' deny the allegations.

22 19. Answering the allegations in Paragraph 19, Respondents' aver that those
23 allegations constitute conclusions of law to which no response is required. To the extent any
24 of the remaining allegations in Paragraph 19 are deemed to be allegations of fact,
25 Respondents' deny them.

26 20. Answering the allegations in Paragraph 20, to the extent Petitioner purports to
27 characterize and/or quote some of the contents of a statute or case, Respondents' aver that
28 the legal authority speaks for itself.

1 21. Answering the allegations in Paragraph 21, Respondents' aver that those
2 allegations constitute conclusions of law to which no response is required. To the extent any
3 of the remaining allegations in Paragraph 21 are deemed to be allegations of fact,
4 Respondents' deny them.

5 22. Answering the allegations in Paragraph 22, Respondents' incorporate herein by
6 this reference its responses to Paragraphs 1 through 21, inclusive.

7 23. Answering the allegations in Paragraph 23, Respondents' admit AHF made a
8 written request to inspect copies of public records. To the extent Petitioner purports to
9 characterize and/or quote some of the contents of this request, Respondents aver that the
10 request speaks for itself.

11 24. Answering the allegations in Paragraph 24, Respondents' admit the allegations.

12 25. Answering the allegations in Paragraph 25, Respondents' lack sufficient
13 information and knowledge to form a belief as to the truth of the allegations and therefore deny
14 them.

15 26. Answering the allegations in Paragraph 26, Respondents' deny each and every
16 allegation.

17 27. Answering the allegations in Paragraph 27, Respondents' aver that those
18 allegations constitute conclusions of law to which no response is required. To the extent
19 Petitioner purports to characterize and/or quote some of the contents of a statute or case,
20 Respondents' aver that the legal authority speaks for itself. To the extent any of the remaining
21 allegations in Paragraph 27 are deemed to be allegations of fact, Respondents' deny them.

22 28. Answering the allegations in Paragraph 28, Respondents aver that those
23 allegations constitute conclusions of law to which no response is required.

24 29. Answering the allegations in Paragraph 29, Respondents' aver that those
25 allegations constitute conclusions of law to which no response is required.

26 27 **SEPARATE AND ADDITIONAL DEFENSES**

28 Without admitting any of the allegations in the Writ Petition, Respondents' allege each

1 of the following as separate and additional defenses, expressly reserving all of its rights to
2 allege additional defenses, and/or seek leave of Court to amend to allege additional defenses,
3 when and if facts supporting such defenses become known to it.

4
5 **AFFIRMATIVE DEFENSES**

6 **FIRST AFFIRMATIVE DEFENSE**

7 As a first affirmative defense to the Petition, Respondents' allege that at all times
8 relevant hereto, Respondents' acted in full compliance with all applicable federal, state and
9 local laws and regulations.

10 **SECOND AFFIRMATIVE DEFENSE**

11 As a second affirmative defense to the Petition, Respondents' allege that at all times
12 relevant hereto, Respondents' acted in full compliance with *Michaelis v. Superior Court*, 38
13 Cal. 4th 1065, 1067, which held that a public agency may withhold competitive proposals from
14 public disclosure until the "conclusion of the agency's negotiation process, occurring before the
15 agency's recommendation is finally approved by the awarding authority."

16
17 **THIRD AFFIRMATIVE DEFENSE**

18 As a second and separate affirmative defense to the Petition, Respondents' alleges the
19 records sought by Petitioner, if found to be public records, are exempt from disclosure under
20 Cal. Gov't Code § 6255.

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24 WHEREFORE, RESPONDENTS' PRAY FOR JUDGMENT AS FOLLOWS:

- 25 1. That the Petition be denied, and judgment be entered in favor of Respondents;
26 2. That Petitioner take nothing by this Petition;
27 3. For costs and attorneys' fees in this action; and
28 4. For such other and further relief as the court may deem just and proper.

1 DATED: January 6, 2020

Respectfully Submitted,

2 MICHAEL N. FEUER, City Attorney
3 DAVID MICHAELSON Managing Assist. City Attorney
4 VALERIE FLORES, Sr. Assistant City Attorney

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6 By: 
7 BETHELWEL WILSON, Deputy City Attorney
8 Attorneys for Respondent
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I, the undersigned, declare: I am employed in the County of Los Angeles. I am over the
4 age of 18 and not a party to this action or proceeding. My business address is Los Angeles
5 City Attorney's Office, Public Safety General Counsel Division, 200 North Main Street, 800 City
Hall East, Los Angeles, CA. 90012.

6 On January 6, 2020, I served the document(s) described as **RESPONDENTS'**
7 **ANSWER TO VERIFIED PETITION FOR WRIT OF MANDATE PURSUANT OT THE**
8 **CALIFORNIA CONSTITUTION AND THE CALIFORNIA PUBLIC RECORDS ACT, AND**
9 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** in Los Angeles Superior
Court Case No. BS 164513 on all interested parties in this action by transmitting true copies
thereof addressed as follows:

10 Tom Myers, Arti Bhimani, Liza M. Brereton, Courtney N. Conner
11 Aids Healthcare Foundation
12 6255 W. Sunset Blvd.; 21st Floor
Los Angeles, CA 90028

13 [X] **BY MAIL:** I am readily familiar with the practice of the Los Angeles City
14 Attorney's Office for collection and processing of correspondence for mailing
15 with the United States Postal Service. In the ordinary course of business,
16 correspondence is deposited with the United States Postal Service the same
17 day it is placed for collection and mailing. On the date referenced above, I
placed a true copy of the above document(s) in a sealed envelope and placed
it for collection in the proper place in our office at Los Angeles, California.

18 [] **BY FACSIMILE TRANSMISSION:** On XXX, from facsimile machine
19 telephone number (213) 978-8787, I transmitted a copy of the above
20 document by facsimile transmission to the person(s) and facsimile machine
21 telephone number(s) indicated above. A transmission report, properly issued
by the transmitting facsimile machine, reported that the transmission was
complete and without error.

22 I declare under penalty of perjury under the laws of the State of California that
23 the foregoing is true and correct.

24 Dated: January 6, 2020

25
26 
27 Ava Smith Declarant
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